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FILED



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**Margaret Botkins
Clerk of Court**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

BP AMERICA PRODUCTION COMPANY,

Petitioner,

v.

DEBRA ANNE HAALAND,
SECRETARY, UNITED STATES
DEPARTMENT OF THE INTERIOR;
KIMBRA DAVIS, DIRECTOR, OFFICE OF
NATURAL RESOURCES REVENUE,
UNITED STATES DEPARTMENT OF THE
INTERIOR

Respondents.

Civil No. 21-CV-105-F

PETITION FOR REVIEW OF FINAL AGENCY ACTION

Pursuant to Rule 83.6 of the Local Rules of the United States District Court for the District of Wyoming, BP America Production Company (“BP”) hereby respectfully petitions the Court for judicial review of final agency action of the United States Department of the Interior (“Interior”).

Background

In 2017, Interior’s Office of Natural Resources Revenue (“ONRR”) issued an Order to Report and Pay Additional Royalties (the “Order”), which directed BP to remit an additional \$1,031,377.23 in royalties attributable to production from federal leases located in the Jonah Field in Wyoming (the “Jonah Field Leases”) for production months April 2012, through October 2012. In accordance with Interior’s regulations, BP challenged the Order by filing an appeal with the ONRR Director, which appeal was docketed as ONRR-17-0073-O&G. In its appeal, BP argued (*inter alia*) that BP is not liable for royalties on production from the Jonah Field Leases for the period April 2012 through October 2012 because BP assigned its interests (both operating rights and record title) in those leases, effective April 1, 2012. On September 30, 2020, the ONRR Director issued a decision upholding the Order, but reducing the amount allegedly due by BP to \$905,348.24. In accordance with Interior’s regulations, BP appealed the September 30, 2020 decision of the ONRR Director to the Interior Board of Land Appeals (“IBLA”), the final level of administrative appeal under Interior’s regulations. BP’s appeal to the IBLA was docketed as IBLA-2021-9.

By statute, Interior must issue a “final decision [*viz.*, an IBLA decision] in any administrative proceeding ... within 33 months from the date such proceeding was commenced” (the “33-Month Period”). 30 U.S.C. § 1724(h)(1). The 33-Month Period “may be extended by any period of time agreed upon in writing by the Secretary and the appellant.” *Id.* BP and ONRR agreed to extend the 33-Month Period through December 2, 2020. Because the IBLA failed to

issue a decision before December 2, 2020, Interior is “deemed” by statute “to have issued a final decision in favor of [Interior], which decision [is] deemed to affirm” the ONRR Director’s decision dated September 30, 2020, and which deemed final decision triggered BP’s right to seek judicial review in accordance with the Administrative Procedure Act (“APA”). 30 U.S.C. § 1724(h)(2)(B). The September 30, 2020, decision of the ONRR Director, deemed by operation of law to be Interior’s final decision in BP’s administrative appeal (*hereinafter* the “Final Decision”), is attached hereto as Exhibit 1.

BP avers that, under the APA, the Final Decision should be set aside because it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” and because it exceeds the scope of Interior’s statutory and regulatory authority. 5 U.S.C. § 706. BP’s Petition for Review of Final Agency Action is timely. *See* 30 U.S.C. § 1724(j).

Jurisdiction and Venue

This action arises under the Mineral Leasing Act, 30 U.S.C. §§ 181 *et seq.*, the Federal Oil and Gas Royalty Management Act, as amended by the Royalty Simplification and Fairness Act, 30 U.S.C. §§ 1701 *et seq.*, and the Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1346 (United States as defendant); and 5 U.S.C. § 704 (judicial review of final agency action and waiver of sovereign immunity). Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202. Venue is proper in this district because a substantial part of the property subject to this action (that is, the Jonah Field Leases) is situated in the District of Wyoming. 28 U.S.C. § 1391(e)(i)(B).

Respectfully submitted,

Dated: May 26, 2021



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